HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

23-08-2006

WRIT PETITION No.17335 of 2006

Between:

M/s. P.E.S.Engineers Private Limited,
Somajiguda, Hyderabad. .. Petitioner

And

1. The Commercial Tax Officer,
Sanathnagar Circle, Hyderabad and others.

..Respondents

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ORDER: (Per JC, J)**:**

This writ petition is filed with a prayer as follows:-

"To issue a writ or order or direction more particularly one in the nature of Writ of Certiorari to quash the impugned order of the 3rd respondent in CCT's Ref.No.LIII (2)/355/2006 dated 18-07-2006 as illegal, arbitrary and unjustified and consequently, restrain the 1st respondent from taking any coercive steps for recovery of disputed tax of Rs.20,47,671/- in pursuance the stay rejection order of the 3rd respondent dated 18-07-2006 for the year 2001-02, pending disposal of the appeal before the Sales Tax Appellate Tribunal, A.P., Hyderabad."

2. The petitioner, a limited company and a registered dealer under A.P. General Sales

Tax Act, 1957 (for short 'the Act') on the rolls of the 1st respondent-Commercial Tax Officer, Sanath Nagar Circle, Hyderabad, is engaged in the business of execution of Civil Works. For the assessment year 2001-02, the 1st respondent assessed the tax liability of the petitioner by its proceedings dated 27-02-2003. By the said order the 1st respondent came to the conclusion that there is excess payment of tax to a tune of Rs.3,62,642/-. The said assessment order came to be revised by the 2nd respondent-Deputy Commissioner (CT), Panjagutta Division, Hyderabad, in exercising the powers under Sub Section (2) of Section 20 of the Act on 27-01-2006 determining the tax liability of the petitioner at an amount higher than the one determined by the assessing authority. Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal. The appeal is said to be pending. The petitioner applied before the 3rd respondent-Additional Commissioner (CT) L egal, Nampally, Hyderabad, seeking stay of recovery of the tax as determined by the 2nd respondent in the revisionary proceedings. The 3rd respondent by his order dated 18-07-2006 rejected the application of the petitioner. Hence, the present writ petition.

3. Heard the learned Government Pleader for Commercial Taxes.

4. In the circumstances, we are of the opinion that the matter can be disposed of at the admission stage, directing the respondents not to take any coercive steps for recovery of the tax as determined by the 2nd respondent-Deputy Commissioner (CT), Panjagutta Division, Hyderabad, in the revisionary proceedings dated 27-01-2006 on condition that the petitioner deposits 50% of the amount of tax as mentioned above, within a period of six weeks from today. The amount of tax, if any paid in the interregnum, shall be given credit to while computing the above mentioned 50% of tax.

5. With the aforementioned direction, the Writ Petition is disposed of. No costs.

J.CHELAMESWAR, J

D.APPARAO, J

August 23, 2006.

Kvr